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September 26, 2023

BY ECF

Hon. Paul G. Gardephe
United States District Judge
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

RE: PCL Construction Services, Inc. v. JP Morgan Chase Bank, N.A.,
No. 1:23-cv-05041-PGG

Dear Judge Gardephe:

We are counsel to JPMorgan Chase Bank, N.A. (“JPM”), the defendant in the above referenced action. We write on behalf of all parties to respectfully request that the Court adjourn the initial pretrial conference scheduled for October 12, 2023 at 11:15 a.m. (*see* ECF No. 6) in view of the pending request for a pre-motion conference and motion to intervene. Counsel for the parties are available if it would be convenient for the Court to instead hold a pre-motion conference at that time.

In this litigation, plaintiff PCL Construction Services, Inc. (“PCL”) seeks to recover from JPM amounts allegedly owed to PCL pursuant to a construction contract between PCL and Ameream LLC (“Borrower”) based on a Consent Agreement between PCL, JPM and Borrower. (*See* ECF No. 1 (Complaint).) On August 11, 2023, JPM submitted a letter seeking a pre-motion conference in connection with its proposed motion to dismiss or stay this action primarily in view of the ongoing litigation between PCL and Borrower concerning the construction contract

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that is pending in New Jersey State court. (*See* ECF No. 17.) On August 23, 2023, PCL filed its letter responding to JPM's request for a pre-motion conference in which it asserts that JPM's proposed motion is without merit because, among other things, the New Jersey state litigation is not relevant to JPM's obligations under the Consent Agreement. (*See* ECF No. 20.) Separately, Borrower has moved to intervene in this action, which PCL has opposed. (*See* ECF Nos. 12-14, 18, 21, 22.)

As a result of the pending motions, there is uncertainty concerning whether and in what form this case may proceed and whether Borrower will be added as a party. In view of these circumstances, the parties do not believe it would be possible to agree to a meaningful proposed Case Management Plan at this juncture. Moreover, the timing, scope and nature of the discovery that may be required is likely to be affected by the resolution of the pending motions. Thus, to the extent the parties were required to prepare a Case Management Plan before resolution of the pending motions, it is likely that substantial revisions would later be required in the event this case were to move forward.

For the foregoing reasons, the parties respectfully request that the Court adjourn the pre-motion conference until a later date convenient to the Court, after the pre-motion conference is held or the motions are resolved, as may be appropriate.

Respectfully submitted,

/s/Patrick G. Rideout

Patrick G. Rideout

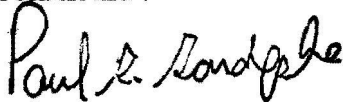
Cc: Counsel of record (by ECF)

MEMO ENDORSED:

The initial pre-trial conference in this case is adjourned sine die.

The Clerk of Court is directed to terminate the letter motion (Dkt. No. 23).

SO ORDERED.



Paul G. Gardephe
United States District Judge

Date: April 12, 2024